

Lifting the Fog from Common Human Resources Misconceptions



Charlotte Jensen | December 2024



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Lifting the Fog: Deciphering Employment Law

- Based on number of employees
- Federal vs. State vs. Local laws
- Private vs. Public Employers



Misconception #1

“I can fire this employee any time I want. This is a right-to-work state.”



- Right-to-work means...
- Employment-at-will means...
- Limits on employment-at-will

Misconception #2

“I’ve worked four hours so far today, so I am legally entitled to a break.”

- A state law matter
- Virginia says...
 - Minors
- Paid versus unpaid
- Auto deductions for unpaid breaks



Misconception #3

“I’m entitled to overtime for working on a holiday.”

2025
FEDERAL
HOLIDAYS

Holiday	Date	Day
New Year's Day	January 1	Wednesday
Martin Luther King, Jr. Day	January 20	Monday
Presidents Day	February 17	Monday
Memorial Day	May 26	Monday
Juneteenth	June 19	Thursday
Independence Day	July 4	Friday
Labor Day	September 1	Monday
Columbus Day	October 13	Monday
Veterans Day	November 11	Tuesday
Thanksgiving Day	November 27	Thursday
Christmas Day	December 25	Thursday

- Only if you’re in Massachusetts or Rhode Island
- A few states have premium pay if working over 8 hours on a given day

Misconception #4

“I didn’t authorize you to work overtime, so you will not receive overtime pay.”

- Wage and hour violation
- It is a disciplinary issue, not a payroll issue
- I didn’t know the employee was working overtime



Misconception #5

“You didn’t return your cell phone when you left, so I’m withholding the cost of it from your final paycheck or withholding your final check until you return the phone.”

- Paychecks cannot be withheld
- Rules regarding payroll deductions
- Blanket deduction authorizations
- Your option? Small claims court



Misconception #6

“Sam retired but is coming back for a few hours each week as an independent contractor while we’re short staffed.”



- The IRS and Department of Labor will beg to differ
- Pay fines, penalties, and the employee’s share of taxes

Misconception #7

“I had to offer so much money to get this new hire I wanted that I’m paying her a salary so I can at least save money on overtime.”

- Exempt vs. non-exempt is a legal decision
- Hourly vs. salary is a payroll decision, mostly
- Fines, penalties, 2 – 3 years of back pay, potential inability to classify any employee as exempt



Misconception #8

“I’m looking forward to you beginning work with the District. On your first day, be sure to bring your driver’s license and social security card.”



- Form I-9
- Easy to do right, costly to do wrong
- Government audit cash cow
- Audits likely to increase under Trump administration

Misconception #9

“It’s better to not have policies documented than to document them and not follow them.”

- Auto body shop employee viewing porn in a customer’s mini van
- Retail employee stealing from cash register
- Lack of a harassment policy
 - Frequently communicated
 - Multiple avenues for complaints
 - Training



Thank you!

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